



DEPARTMENT OF LABOR

[Secretary's Order 1-2017]

Order of Succession to the Secretary of Labor in periods of vacancy, Continuity of Executive Direction, Repositioning and Devolution of Departmental Governance, and Emergency Planning Under Circumstances of Extreme Disruption

1. **Purpose.** To provide for succession to act as, or on behalf of, the Secretary of Labor in case of death or resignation of the Secretary, or if the Secretary is otherwise unable to perform the functions and duties of the office, including in case of absence or sickness; to provide lines of succession for executive continuity within the Department and its Agencies during vacancies arising in a period of national emergency or in the course of business; to provide for the repositioning and devolution of Departmental governance under circumstances of extreme disruption; and to identify the first assistant to those officers of the Department whose appointment to office is required to be made by the President, including those whose appointment is subject to the advice and consent of the Senate.
2. **Authority and Directives.**
 - A. This Order is issued pursuant to Executive Order 13755 (replacing Executive Order (E.O.) 13245, December 18, 2001); the Federal Vacancies Reform Act of 1998 (the FVRA) (codified generally at 5 U.S.C. § 3345, et seq.); 29 U.S.C. § 551 et seq.; Reorganization Plan No. 6 of 1950; Reorganization Plan No. 1 of 1958; Reorganization Plan No. 1 of 1973; Federal Civil Defense Act of 1950 as amended; Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121

et seq., as amended; 5 USC § 301; 31 U.S.C. §§ 1531 and 1533; Executive Order 12656, as amended; and Executive Order 12148, as amended.

National Security Presidential Directive 51/Homeland Security Presidential Directive 20 (NSPD-51/HSPD-20) *National Continuity Policy* (May 2007); National Continuity Policy Implementation Plan (NCPIP) (Aug 2007); Federal Continuity Directive 1 (FCD-1) *Federal Executive Branch National Continuity Program and Requirements* (October 2012); Office of Personnel Management, *Handbook on Pay and Leave Benefits for Federal Employees Affected by Severe Weather Conditions or Other Emergency Situations* (June 2008).

B. Secretary's Order 4-2008 (August 4, 2008) is hereby superseded and canceled, and all agency delegations in conflict with this Order and/or its Attachment are hereby superseded.

3. **Background.** Pursuant to the 1998 Federal Vacancies Reform Act, the most recent order of succession of officers to act as Secretary of Labor in periods of vacancy was set forth in Secretary's Order 4-2008 (August 4, 2008), which was issued under the authority of E. O. 13245 (December 18, 2001). On December 23, 2016, E.O. 13755 revoked E.O. 13245 and provided a new order of succession to the position of Secretary of Labor.

The Department's plan for continuity of operations in the event of a need for relocation involves movement of Emergency Response Group to a Continuity Site.

The Department's plan for devolution was established by Secretarial Memorandum dated December 20, 2006, wherein the Secretary selected Dallas, Texas as the National Office, Department of Labor devolution site (the "Devolution Site").

4. **Order of Governance.** In accordance with E.O. 13755 and the FVRA, in case of absence due to death, resignation, or if the official is otherwise unable to perform the functions and duties of the office, the functions and duties of the officers of the Department of Labor and their respective responsibilities for operational management will be performed in an acting capacity or on behalf thereof by the incumbents of the positions designated in the following orders:

A. **Succession To the Secretary of Labor**

Sequence for identifying the Acting Secretary of Labor, who shall have all of the authorities and responsibilities of the Secretary:

- (1) Deputy Secretary of Labor;
- (2) Solicitor of Labor;
- (3) Assistant Secretary for Administration and Management [Not subject to Senate Confirmation, PL 112-166];
- (4) Assistant Secretary for Policy;
- (5) Assistant Secretary for Congressional and Intergovernmental Affairs;
- (6) Assistant Secretary for Employment and Training;
- (7) Assistant Secretary for Employee Benefits Security;
- (8) Assistant Secretary for Occupational Safety and Health;
- (9) Assistant Secretary for Mine Safety and Health;
- (10) Assistant Secretary for Public Affairs [Not subject to Senate confirmation, PL 112-166];
- (11) Chief Financial Officer

(12) Administrator, Wage and Hour Division

(13) Assistant Secretary for Veterans' Employment and Training;

(14) Assistant Secretary for Disability Employment Policy;

(15) First assistants, as defined in the FVRA, to the officials in the order listed in (2), and (4)-(9);

(16) Regional Solicitor – Dallas; and

(17) Regional Administrator for the Office of the Assistant Secretary for Administration and Management -- Region VI/Dallas -- (who, upon becoming Delegated Secretarial Designee (DSD) by order of operation of this Succession Order, the Secretary hereby authorizes and pre-approves for an immediate, noncompetitive appointment to the Senior Executive Service (SES) under a limited-term appointment using a DOL SES allocation).

Provided that, no individual who is serving in an acting capacity in any of the above positions shall serve as Acting Secretary pursuant to this Order.

B. Identifying the Delegated Secretarial Designee on behalf of the Secretary of Labor

In the event and for such time(s) that none of the incumbents in the succession sequence set forth in Paragraph 4.A., above, are available to serve as Acting Secretary, the Delegated Secretarial Designee (DSD) shall fulfill, on an interim basis, the operational management of the Department

except the Secretary's "functions and duties." The "functions and duties" of the Secretary are those non-delegable responsibilities (a) established by law (statute or regulation); and (b) required to be performed by, and only by, the Secretary. Except as determined otherwise by the President, whoever from time to time is highest in the following sequence and is available to serve shall be the Delegated Secretarial Designee:

(1) The following:

- (a) Director, Office of Federal Contract Compliance Programs;
- (b) Director of the Women's Bureau; and
- (c) Director, Office of Labor Management Standards;

(2) Specified DOL officials as follows:

- (a) Regional Administrator for ETA located in Dallas;
- (b) OSHA Regional Administrator – Dallas.

Provided that, no individual who is serving in an acting capacity in any of the above positions shall serve as the Delegated Secretarial Designee pursuant to this Order.

C. To All Other PAS Positions and Heads of Other Principal Organizational Units

(1) There are offices and agencies within the Department of Labor headed by officers whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate (PAS). In

the event of a vacancy in any of these PAS positions, the FVRA provides that, except in certain narrow circumstances, the "first assistant [to the PAS position] shall perform the functions and duties of the [PAS position] temporarily in an acting capacity" (subject to certain time limitations), unless and until the President makes an alternative designation under the FVRA. The functions and duties of the PAS officers of the Department and the operational management of the respective agency will be performed by the incumbent first assistant to the PAS position, as designated in the Secretarial Memorandum to Department of Labor Executive Staff (see, "Memorandum," attached to this Order).

- (2) In the event that (a) there is a vacancy in the position of the first assistant, or (b) the first assistant position is occupied by a person who is statutorily barred from serving as an acting officer, the operational management of the agency headed by the PAS shall be performed by the person whose designation closest follows that of the first assistant, unless and until the President makes an alternative designation under the FVRA. However, the "functions and duties" of the PAS may not be performed by any person other than the person serving in an acting capacity (or, in the absence of an acting officer, by the Secretary pursuant to the FVRA). The "functions and duties" are those non-

delegable responsibilities (a) established by law (statute or regulation); and (b) required to be performed by, and only by, the PAS.

(3) The Memorandum described in Paragraph 4.C. (1) above shall include succession to the heads of other Departmental organizational units that report to the Secretary.

(4) Nothing in this Order or the Memorandum shall: (1) be construed to override the provisions in the FVRA with respect to the Inspector General or the Chief Financial Officer (5 U.S.C. § 3348(e)); or (2) limit the Secretary's authority to reassign functions or duties of officers unless otherwise precluded by law or regulation.

(5) The Memorandum shall be published in the Federal Register and codified in the Department of Labor Manual Series. It is also subject to periodic revision by the Secretary, as necessary, and is effective upon signature unless otherwise specified.

5. **Emergency Governance of the Department of Labor and Devolution of Authorities and Responsibilities**

A. Secretary (or Acting Secretary) of Labor. Unless otherwise directed by the President (or designee), upon the occurrence of a national emergency entailing a wholesale disruption of the operations, structure, and leadership of the Department of Labor, the Secretary or Acting Secretary (as designated by the President or as provided in the order of succession set forth in Paragraph 4.A. above) shall activate the governing Continuity Plans and determine whether the

National Office of the Department of Labor will remain in the then existing location, be repositioned organizationally to the Continuity Site, or be repositioned at the Devolution Site.

- B. Except as otherwise directed by the President (or designee), if (1) a catastrophic event occurs in the Washington, D.C. metropolitan area; (2) the incumbents identified in Paragraph 4.A. are unavailable or unlikely to be available promptly for succession; and (3) the incumbent(s) higher-situated to fill the role of Delegated Secretarial Designee (DSD) as provided in Paragraph 4.B. are unavailable or unlikely to be available promptly to assume the position of DSD, then consistent with the guidelines and operational plans of the Department and upon a review of the circumstances and Executive branch guidance, the incumbent in the next highest DSD-eligible position shall activate the governing Continuity Plans described in Paragraph 5.A. and, based upon those plans, determine whether the National Office of the Department of Labor will remain in the then existing location, be repositioned organizationally to the Continuity Site, or be repositioned in Dallas, Texas. If emergency circumstances exist that make identification of the DSD untenable, then the Regional Solicitor located in Dallas shall assume the duties and responsibilities described above in this Paragraph 5.B. unless and until the Secretary, Acting Secretary or a higher-situated official listed in Paragraph 4.B. above is identified and is available to serve.

6. **General and Specific Delegations of Authority and Assignment of Responsibilities**

- A. Acting Secretary: Upon designation in accordance with the conditions and sequence set forth in Section 4.A. of this Order, the Acting Secretary shall have all of the authorities of the Secretary of Labor, whether statutorily-conferred or delegated by the President. The Acting Secretary shall provide for the full operational management of the Department of Labor, including, for example, the activation or modification of pre-existing Continuity Plans for the repositioning and reconstitution of the Department of Labor in the event of a national emergency.
- B. Delegated Secretarial Designee: Upon designation in accordance with the conditions and sequence set forth above and subject to direction by the President or designee, the Secretary, or the Acting Secretary, the DSD shall fulfill interim operational management functions for the Department of Labor, performing all of the duties and responsibilities of the Secretary of Labor (except the “functions and duties” as defined in Paragraph 4.B. above) including, for example, the activation or modification of pre-existing Continuity Plans for the repositioning and reconstitution of the Department of Labor in the event of a national emergency.
- C. Assistant Secretary for Administration and Management: Upon conditions requiring implementation of this plan and any subsequent vacancies, ASAM shall be in charge of ensuring compliance with the FVRA. Further, as the DOL Continuity Coordinator, ASAM shall develop and provide on at least an annual basis a “duties and responsibilities” briefing to the designated Secretarial

successors and DSDs and other key positions on their respective responsibilities, and on applicable relocation and reconstitution provisions, and shall establish (within 180 days from the date of this Order) and regularly thereafter update, in consultation with DOL Agency Heads, governing Continuity Plans for the repositioning and reconstitution of the Department of Labor upon the occurrence of national emergency scenarios entailing a wholesale disruption of the operations, structure, and leadership of the Department of Labor.

The governing Continuity Plans for the Department as approved by the ASAM shall reflect:

- (1) the standards under a variety of scenarios for activation of the Continuity Plans;
- (2) the determination of each agency head that the succession plans, delegations of authority and assignments of responsibility, emergency agency directives, standard operating procedures, and position descriptions needed to fulfill its mission, if devolved to or reconstituted in Dallas, are established, approved by the ASAM, and presented to the Dallas Regional Administrator (OASAM) for contingency activation by Secretary, Acting Secretary, or the Delegated Secretarial Designee; and
- (3) plans prepared by the DOL component Agencies, to include OASAM, Dallas Regional Administrator (OASAM) for devolving essential operations for the component Agency and for reconstituting the

Department or component Agency in the event of activation of the DOL Continuity Plans.

- D. The Chief Human Capital Officer shall develop and approve (within 180 days from the date of this Order) and regularly thereafter update, a plan, consistent with applicable law, for managing, positioning and compensating DOL human resources in the event of a continuity of operations event, and shall assist with, and review the adequacy of, preparations by Agency Heads for repositioning and reconstituting the operations of their respective agencies. The Chief Human Capital Officer shall also assure that the position descriptions of all DSD-eligible incumbents reflect their potential DSD service.
- E. The Chief Acquisition Officer shall develop and approve (within 180 days from the date of this Order) and regularly thereafter update, appropriate plans for assuring that all stages of the Department's central contracting needs can be met with regional resources and that emergency powers, to the extent permitted by law, are ready for activation upon the occurrence of a national emergency or major disruption, and shall assist with and review the adequacy of preparations by Agency Heads for repositioning and reconstituting the operations of their respective agencies.
- F. The Chief Information Officer shall develop and approve (within 180 days from the date of this Order) and regularly thereafter update, appropriate plans for assuring that all of the Department's information technology

systems have sufficient redundancies to support the timely relocation of the Department's Essential Functions and the reconstitution of the all the Department's organizations and functions, and shall assist with and review the adequacy of preparations by Agency Heads for repositioning and reconstituting the operations of their respective agencies.

- G. The Assistant Secretary for Administration and Management shall develop and approve (within 180 days from the date of this Order) and regularly thereafter update, plans, consistent with applicable law, for the establishment of budget formulation for a relocated or reconstituted Department and for securing apportionment flexibilities that will permit functions to be transferred and redistributed among DOL agencies and their respective appropriation accounts, and shall assist with and review the adequacy of preparations by Agency Heads for repositioning and reconstituting the operations of their respective agencies.
- H. The Chief Financial Officer shall develop and approve (within 180 days from the date of this Order) and regularly thereafter update, plans consistent with applicable law, for the establishment of budget execution capabilities for a relocated or reconstituted Department and shall assist with and review the adequacy of preparations by Agency Heads for repositioning and reconstituting the operations of their respective agencies.

- I. The Chief Property Officer shall assist with and review the adequacy of preparations by Agency Heads for repositioning and reconstituting the operations of their respective agencies.
- J. The Solicitor of Labor is delegated authority and assigned responsibility for providing legal advice and assistance to all officers of the Department relating to the administration and implementation of this Order and, if such an event arises, for a relocated or reconstituted Department. The bringing of legal proceedings, the representation of the Secretary and other officials of the Department, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively.

In addition, the Solicitor of Labor shall assume responsibilities from the Assistant Secretary for Policy for performing the role of Departmental liaison with the Office of the Federal Register in the event of devolution of departmental operations to Dallas.

- K. Agency Heads shall assure completion (within 180 days from the date of this Order, and on a regular basis thereafter) of the planning, support, and consultation required by authorized officers in connection with all aspects of the administration of this Order, including:

- (1) Establishing appropriate succession plans, delegations of authority and assignments of responsibility, emergency agency directives, vital

- record identification and protection, standard operating procedures, and position descriptions to assure for the continuity of agency operations relocated to the Continuity Site or the Devolution Site, as appropriate;
- (2) Engaging in specific transitional planning with the ASAM, including provisions for appropriate transfer of staff and programs as appropriate, in order to create devolution plans for DOL Agencies whose Offices do not currently have staff and space available at the Devolution Site; and
- (3) In consultation with the Office of the Solicitor, identifying, compiling, and reporting to the ASAM regarding those emergency authorities and responsibilities that may not be suspended, or are activated, during national emergencies of any type.

L. All employees, including contractors, of the Department shall be responsible for knowing their individual responsibilities in any continuity situation, for contacting DOL as soon as possible after a major incident consistent with applicable guidance and for being available to work during emergencies to the extent deemed necessary and appropriate and consistent with OPM guidance. All employees shall also comply with such further directions as may be published from time to time in the

Department's internal regulations or otherwise distributed relating to their duties and responsibilities during emergency circumstances.

7. Reservations of Authority

- A. Except to the extent stated in this Order, this Secretary's Order does not affect the authorities and responsibilities of the Inspector General under the Inspector General Act of 1978, as amended, or Secretary's Order 04-2006 (February 21, 2006).
- B. This Order does not affect any authorities and responsibilities of the Chief Financial Officer under the Chief Financial Officers Act of 1990, any other Federal law or regulation, or any Office of Management and Budget, Government Accountability Office, or U.S. Department of the Treasury policies and publications governing the fiscal responsibilities of Federal departments and agencies.

8. Effective Date. This Order is effective immediately.

THOMAS E. PEREZ

Secretary of Labor

Attachment

MEMORANDUM FOR DEPARTMENT OF LABOR EXECUTIVE STAFF

FROM: THOMAS E. PEREZ

SUBJECT: To Provide for the Order of Succession for
Executive Continuity

This memorandum is issued pursuant to Secretary's Order 1-2017 and the authorities cited therein, in order to provide lines of succession in periods of vacancy in case of absence, sickness, resignation, or death of agency heads and during periods of national emergency declared by the President and to provide for ongoing operational management of agency programs and personnel. This memorandum addresses succession in the Department for (1) appointments made by the President, by and with the advice and consent of the Senate (PAS), (2) appointments made by the President not subject to the Senate's advice and consent role (PA), and (3) appointments made by the Secretary.

Succession for PAS Agency Head Appointments

Functions and duties and ongoing operational management responsibilities of the officers of the Department whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate (PAS), will be performed in an acting capacity by the below designated "first assistants," unless and until the President makes an alternative designation under the Federal Vacancies Reform Act of 1998 (FVRA). Functions and duties are those non-delegable responsibilities established by law (statute or regulation) and required to be performed by, and only by, the PAS.

In the event that the first assistant does not serve or is barred from serving, unless and until the President makes an alternative designation under the FVRA, the person whose designation closest follows that of the first assistant shall perform the operational management of the agency.

However, the functions and duties of the PAS may not be performed by any person other than the person serving in an acting capacity, in accord with FVRA (or, in the absence of an acting officer, by the Secretary pursuant to the FVRA).

Succession for other Agency Head Appointments

In addition, certain DOL offices are not covered by the FVRA because they are not subject to Senate confirmation. Nevertheless, they are included in this Memorandum in order to consolidate the presentation of the Department's program for establishing orderly internal succession in the event of vacancies. These agencies are:

Office of the Assistant Secretary for Administration and Management

Office of the Assistant Secretary for Public Affairs

Office of Federal Contract Compliance Programs

Women's Bureau

Office of Labor-Management Standards

Office of Workers' Compensation Programs

Bureau of International Labor Affairs

This memorandum supersedes all prior inconsistent agency delegations. Agency Heads shall assure that agency delegations, position descriptions, and other pertinent documents are maintained consistently with the designations provided below. Any modifications to the Order of Succession specified in this memorandum are solely reserved to the Secretary.

This memorandum shall be published in the Federal Register and codified in the Department of Labor Manual Series. This memorandum is subject to periodic revision by the Secretary, as necessary, and is effective on the date indicated above.

DESIGNATION OF DOL AGENCY FIRST ASSISTANT ¹ AND ORDER OF SUCCESSION

A. Presidential Appointments: Positions Under the Secretary of Labor

Deputy Secretary of Labor:

Designation to be made by Presidential direction, as provided in 5 U.S.C. § 3345.

Solicitor of Labor:

Deputy Solicitor

Deputy Solicitor (Regional Enforcement)

Deputy Solicitor (National Operations)

Assistant Secretary for Administration and Management [not subject² to FVRA³]

Deputy Assistant Secretary for Policy

Deputy Assistant Secretary for Operations

Assistant Secretary for Policy:

Deputy Assistant Secretary for Policy

Deputy Assistant Secretary for Policy (Operations and Analysis)

Assistant Secretary for Congressional and Intergovernmental Affairs:

Deputy Assistant Secretary for Congressional Affairs

Deputy Assistant Secretary for Congressional Affairs

Assistant Secretary for Employment and Training:

Deputy Assistant Secretary

Deputy Assistant Secretary

Deputy Assistant Secretary for Operations and Management

¹ The first assistants or equivalent position are designated in *italic font* in the list that follows as the position designated immediately below the agency head position title. Unless otherwise indicated, the listed first assistants are those individuals holding non-career appointments. From time-to-time, DOL may create a “Principal Deputy” position and designate someone to fill that role. If any such position is filled and approved by OPM, that position would go immediately below the Agency Head position.

² P.L. 112-166, Presidential Appointment and Streamlining Act of 2011

³ Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d

Assistant Secretary for Employee Benefits Security:

Deputy Assistant Secretary for Policy

Deputy Assistant Secretary for Program Operations

Assistant Secretary for Occupational Safety and Health:

Deputy Assistant Secretary

Deputy Assistant Secretary

Assistant Secretary for Mine Safety and Health:

Deputy Assistant Secretary for Mine Safety and Health

Deputy Assistant Secretary for Mine Safety and Health (Operations)

Assistant Secretary for Public Affairs [not subject⁴ to FVRA]:

Deputy Assistant Secretary

Senior Managing Director

Chief Financial Officer:

Deputy Chief Financial Officer

Administrator, Wage and Hour Division:

Deputy Wage and Hour Administrator

Deputy Wage and Hour Administrator (Operations)

Assistant Secretary for Veterans' Employment and Training:

Deputy Assistant Secretary for Veterans' Employment and Training Service (Policy)

Deputy Assistant Secretary for Operations and Management

Assistant Secretary for Disability Employment Policy:

Deputy Assistant Secretary

Director of the Women's Bureau [not subject⁵ to FVRA]:

Deputy Director⁶

⁴ See footnote 2.

⁵ See footnote 2.

Deputy Director

Commissioner of Labor Statistics:

Deputy Commissioner

Inspector General:

Deputy Inspector General

B. Non-Career SES Agency Head Positions

Director, Office of Federal Contract Compliance Programs:

Deputy Director

Director, Division of Program Operations

Director, Office of Labor-Management Standards:

Deputy Director

Director, Office of Workers' Compensation Programs:

Deputy Director

Director, Division of Federal Employee Compensation

**Deputy Under Secretary for International Affairs of the Bureau of International Labor
Affairs:**

Associate Deputy Under Secretary for International Affairs

Associate Deputy Under Secretary for International Affairs

⁶ 29 U.S.C 14 creates first assistant to the Director of the Women's Bureau.

